BEFORE

THE PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

DOCKET NO. 2004-335-E - ORDER NO. 2004-639

DECEMBER 22, 2004

| | | | |
|---|---|---|---|
| IN RE: | Application of Duke Power, a Division of Duke Energy Corporation for Approval of Proposed Changes to Economic Development Rider (Rider EC) and Economic Redevelopment Rider (Rider ER). | ) | ORDER MODIFYING RIDERS |

This matter comes before the Public Service Commission of South Carolina (the Commission) on the request of Duke Energy Corporation (Duke or the Company) for approval to modify its Economic Development (Rider EC) and Economic Redevelopment (Rider ER) riders. Duke is proposing to eliminate the requirement under the qualification Section B, which requires "that such capital investment be accompanied by a net increase in full time equivalent employees employed by the Customer in the Company's service area." Duke is also proposing a clarification to the language in Rider EC and Rider ER addressing the customer's obligations upon termination of an agreement under these riders prior to the initial term of the agreement.

In its letter, Duke notes that the manufacturing industry has changed tremendously in the past ten years, and that manufacturing productivity gains have averaged twice the annual productivity gains of the rest of the private sector over the past two decades. Approximately 70% of Duke Power's new industrial load comes directly or indirectly from existing industrial customers. Duke Power is proposing to eliminate the additional jobs requirement from Rider EC and Rider ER to better reflect the environment in the competitive manufacturing industry. According to Duke, the elimination of the additional jobs requirement will help to ensure that South Carolina continues to receive the substantial benefits that this sector possesses.

Further, Duke is seeking to clarify its practices in connection with termination of electric service agreements prior to the end of the initial term. In Riders EC and ER, the Contract Period section currently states: "In the event of early termination of a contract under this Rider, the Customer will be required to pay the Company any costs due to such early terminations." During 2004, Duke has had several customers request to terminate their contract under the EC and ER Riders prior to fulfillment of the initial term of the agreement. In connection with these early contract terminations, some customers have sought clarification of the early termination language in the Riders.

Duke proposes to clarify the language in Rider EC and Rider ER to clearly state the method for determining the amount that customers will be required to pay when terminating the agreement before fulfillment of the initial term. The charge will be the lower of: (a) The net present value of the monthly minimum bills less any mitigation of damages; or (b) The sum of (1) the loss due to early retirement of facilities specifically installed by Duke Power to provide service under the agreement, plus (2) the difference between the net charges to the customer under the applicable rate schedule after application of any credits received under Rider EC or ER and Duke's marginal cost to serve the customer (provided that this amount is not less than zero or greater than the total credits received by the customer under Rider EC or ER). In this calculation Duke

Power's marginal cost will be calculated as under Schedule HP, Hourly Pricing for Incremental Load.

According to Duke, this clarification represents its long-standing practice in the event of early contract termination with respect to the consideration of minimum bills for the remainder of the initial term and the loss due to early retirement of facilities to serve the customer. With regard to the credits customers received under Rider EC and Rider ER, the proposed approach is more consistent with customer expectations and the goals of economic development rates than requiring the repayment in full of the credits without further analysis. By requiring repayment of credits only to the extent needed to cover marginal cost, the proposed clarification, according to Duke, is more advantageous to customers on these riders while ensuring that Duke has received sufficient revenue to cover its marginal cost to serve these customers.

We have examined the proposal, and we hereby adopt the above-stated recitation as our findings of fact and conclusions of law. We hereby grant approval for Duke to modify its Economic Development Rider EC and Economic Redevelopment Rider ER to eliminate the requirement under the qualification Section B which requires "that such capital investment be accompanied by a net increase in full-time equivalent employees employed by the Customer in the Company's service area." This modification will allow the riders to better reflect the environment in the competitive manufacturing industry in South Carolina. The elimination of the additional jobs requirement will help to endure that South Carolina continues to receive the substantial benefits that the manufacturing sector provides.

We also approve Duke's proposal to clarify the language in Rider EC and Rider ER addressing the customer's obligations upon termination of an agreement under these riders prior to the initial term of the agreement. The clarification will outline Duke's intent to require repayment of credits only to the extent needed to cover marginal cost. This approach is more advantageous to customers on these riders, while ensuring that Duke has received sufficient revenue to cover its marginal cost to serve these customers.

Duke shall furnish ten copies of the modified riders to this Commission within ten days of receipt of this Order. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:

/s/
Randy Mitchell, Chairman

ATTEST:

/s/
G. O'Neal Hamilton, Vice Chairman

(SEAL)